

CENTER FOR DISABILITY ACCESS  
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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

**Scott Johnson,**

Plaintiff,

v.

**LLT Trading, LLC**, a California  
Limited Liability Company; and  
Does 1-10,

Defendants.

**Case No.**

**Complaint For Damages And  
Injunctive Relief For Violations  
Of: Americans With Disabilities  
Act; Unruh Civil Rights Act**

Plaintiff Scott Johnson complains of LLT Trading, LLC, a California Limited Liability Company; and Does 1-10 ("Defendants"), and alleges as follows:

**PARTIES:**

1. Plaintiff is a California resident with physical disabilities. Plaintiff is a level C-5 quadriplegic. He cannot walk and also has significant manual dexterity impairments. He uses a wheelchair for mobility and has a specially equipped van.

2. Defendant LLT Trading, LLC owned the real property located at or about 2380 S 10th St, San Jose, California, between January 2020 and March

1 2020.

2 3. Defendant LLT Trading, LLC owns the real property located at or about  
3 2380 S 10th St, San Jose, California, currently.

4 4. Plaintiff does not know the true names of Defendants, their business  
5 capacities, their ownership connection to the property and business, or their  
6 relative responsibilities in causing the access violations herein complained of,  
7 and alleges a joint venture and common enterprise by all such Defendants.  
8 Plaintiff is informed and believes that each of the Defendants herein,  
9 including Does 1 through 10, inclusive, is responsible in some capacity for the  
10 events herein alleged, or is a necessary party for obtaining appropriate relief.  
11 Plaintiff will seek leave to amend when the true names, capacities,  
12 connections, and responsibilities of the Defendants and Does 1 through 10,  
13 inclusive, are ascertained.

14  
15 **JURISDICTION & VENUE:**

16 5. The Court has subject matter jurisdiction over the action pursuant to 28  
17 U.S.C. § 1331 and § 1343(a)(3) & (a)(4) for violations of the Americans with  
18 Disabilities Act of 1990, 42 U.S.C. § 12101, et seq.

19 6. Pursuant to supplemental jurisdiction, an attendant and related cause  
20 of action, arising from the same nucleus of operative facts and arising out of  
21 the same transactions, is also brought under California's Unruh Civil Rights  
22 Act, which act expressly incorporates the Americans with Disabilities Act.

23 7. Venue is proper in this court pursuant to 28 U.S.C. § 1391(b) and is  
24 founded on the fact that the real property which is the subject of this action is  
25 located in this district and that Plaintiff's cause of action arose in this district.

26  
27 **FACTUAL ALLEGATIONS:**

28 8. Plaintiff went to the property to visit Famiere in January 2020, February

1 2020 and March 2020 (three times) with the intention to avail himself of its  
2 goods or services motivated in part to determine if the defendants comply with  
3 the disability access laws.

4 9. Famiere is a facility open to the public, a place of public  
5 accommodation, and a business establishment.

6 10. Unfortunately, on the dates of the plaintiff's visits, the defendants failed  
7 to provide wheelchair accessible parking in conformance with the ADA  
8 Standards as it relates to wheelchair users like the plaintiff.

9 11. Famiere provides parking to its customers but fails to provide  
10 wheelchair accessible parking.

11 12. One problem that plaintiff encountered is that there were slopes in the  
12 parking space reserved for persons with disabilities that exceeded 2.1%.

13 13. Plaintiff believes that there are other features of the parking that likely  
14 fail to comply with the ADA Standards and seeks to have fully compliant  
15 parking available for wheelchair users.

16 14. On information and belief the defendants currently fail to provide  
17 wheelchair accessible parking.

18 15. Additionally, on the dates of the plaintiff's visits, the defendants failed  
19 to provide wheelchair accessible entrance door hardware in conformance with  
20 the ADA Standards as it relates to wheelchair users like the plaintiff.

21 16. Famiere provides entrance door hardware to its customers but fails to  
22 provide wheelchair accessible entrance door hardware.

23 17. One problem that plaintiff encountered is that the entrance door  
24 hardware had a panel-style handle.

25 18. Plaintiff believes that there are other features of the door hardware that  
26 likely fail to comply with the ADA Standards and seeks to have fully compliant  
27 door hardware available for wheelchair users.

28 19. On information and belief the defendants currently fail to provide

1 wheelchair accessible entrance door hardware.

2 20. These barriers relate to and impact the plaintiff's disability. Plaintiff  
3 personally encountered these barriers.

4 21. As a wheelchair user, the plaintiff benefits from and is entitled to use  
5 wheelchair accessible facilities. By failing to provide accessible facilities, the  
6 defendants denied the plaintiff full and equal access.

7 22. The failure to provide accessible facilities created difficulty and  
8 discomfort for the Plaintiff.

9 23. The defendants have failed to maintain in working and useable  
10 conditions those features required to provide ready access to persons with  
11 disabilities.

12 24. The barriers identified above are easily removed without much  
13 difficulty or expense. They are the types of barriers identified by the  
14 Department of Justice as presumably readily achievable to remove and, in fact,  
15 these barriers are readily achievable to remove. Moreover, there are numerous  
16 alternative accommodations that could be made to provide a greater level of  
17 access if complete removal were not achievable.

18 25. Plaintiff will return to Famiere to avail himself of its goods or services  
19 and to determine compliance with the disability access laws once it is  
20 represented to him that Famiere and its facilities are accessible. Plaintiff is  
21 currently deterred from doing so because of his knowledge of the existing  
22 barriers and his uncertainty about the existence of yet other barriers on the  
23 site. If the barriers are not removed, the plaintiff will face unlawful and  
24 discriminatory barriers again.

25 26. Given the obvious and blatant nature of the barriers and violations  
26 alleged herein, the plaintiff alleges, on information and belief, that there are  
27 other violations and barriers on the site that relate to his disability. Plaintiff will  
28 amend the complaint, to provide proper notice regarding the scope of this

lawsuit, once he conducts a site inspection. However, please be on notice that the plaintiff seeks to have all barriers related to his disability remedied. See *Doran v. 7-11*, 524 F.3d 1034 (9th Cir. 2008) (holding that once a plaintiff encounters one barrier at a site, he can sue to have all barriers that relate to his disability removed regardless of whether he personally encountered them).

**I. FIRST CAUSE OF ACTION: VIOLATION OF THE AMERICANS WITH DISABILITIES ACT OF 1990** (On behalf of Plaintiff and against all Defendants.) (42 U.S.C. section 12101, et seq.)

27. Plaintiff re-pleads and incorporates by reference, as if fully set forth again herein, the allegations contained in all prior paragraphs of this complaint.

28. Under the ADA, it is an act of discrimination to fail to ensure that the privileges, advantages, accommodations, facilities, goods and services of any place of public accommodation is offered on a full and equal basis by anyone who owns, leases, or operates a place of public accommodation. See 42 U.S.C. § 12182(a). Discrimination is defined, inter alia, as follows:

- a. A failure to make reasonable modifications in policies, practices, or procedures, when such modifications are necessary to afford goods, services, facilities, privileges, advantages, or accommodations to individuals with disabilities, unless the accommodation would work a fundamental alteration of those services and facilities. 42 U.S.C. § 12182(b)(2)(A)(ii).
- b. A failure to remove architectural barriers where such removal is readily achievable. 42 U.S.C. § 12182(b)(2)(A)(iv). Barriers are defined by reference to the ADA Standards.
- c. A failure to make alterations in such a manner that, to the

1 maximum extent feasible, the altered portions of the facility are  
2 readily accessible to and usable by individuals with disabilities,  
3 including individuals who use wheelchairs or to ensure that, to the  
4 maximum extent feasible, the path of travel to the altered area and  
5 the bathrooms, telephones, and drinking fountains serving the  
6 altered area, are readily accessible to and usable by individuals  
7 with disabilities. 42 U.S.C. § 12183(a)(2).

8 29. When a business provides parking for its customers, it must provide  
9 accessible parking.

10 30. Here, accessible parking has not been provided in conformance with the  
11 ADA Standards.

12 31. When a business provides facilities such as door hardware, it must  
13 provide accessible door hardware.

14 32. Here, accessible door hardware has not been provided in conformance  
15 with the ADA Standards.

16 33. The Safe Harbor provisions of the 2010 Standards are not applicable  
17 here because the conditions challenged in this lawsuit do not comply with the  
18 1991 Standards.

19 34. A public accommodation must maintain in operable working condition  
20 those features of its facilities and equipment that are required to be readily  
21 accessible to and usable by persons with disabilities. 28 C.F.R. § 36.211(a).

22 35. Here, the failure to ensure that the accessible facilities were available  
23 and ready to be used by the plaintiff is a violation of the law.

24  
25 **II. SECOND CAUSE OF ACTION: VIOLATION OF THE UNRUH CIVIL**  
26 **RIGHTS ACT** (On behalf of Plaintiff and against all Defendants.) (Cal. Civ.  
27 Code § 51-53.)

28 36. Plaintiff repleads and incorporates by reference, as if fully set forth

again herein, the allegations contained in all prior paragraphs of this complaint. The Unruh Civil Rights Act (“Unruh Act”) guarantees, inter alia, that persons with disabilities are entitled to full and equal accommodations, advantages, facilities, privileges, or services in all business establishment of every kind whatsoever within the jurisdiction of the State of California. Cal. Civ. Code §51(b).

37. The Unruh Act provides that a violation of the ADA is a violation of the Unruh Act. Cal. Civ. Code, § 51(f).

38. Defendants’ acts and omissions, as herein alleged, have violated the Unruh Act by, inter alia, denying, or aiding, or inciting the denial of, Plaintiff’s rights to full and equal use of the accommodations, advantages, facilities, privileges, or services offered.

39. Because the violation of the Unruh Civil Rights Act resulted in difficulty, discomfort or embarrassment for the plaintiff, the defendants are also each responsible for statutory damages, i.e., a civil penalty. (Civ. Code § 55.56(a)-(c).)

40. Although the plaintiff encountered frustration and difficulty by facing discriminatory barriers, even manifesting itself with minor and fleeting physical symptoms, the plaintiff does not value this very modest physical personal injury greater than the amount of the statutory damages.

**PRAYER:**

Wherefore, Plaintiff prays that this Court award damages and provide relief as follows:

1. For injunctive relief, compelling Defendants to comply with the Americans with Disabilities Act and the Unruh Civil Rights Act. Note: the plaintiff is not invoking section 55 of the California Civil Code and is not seeking injunctive relief under the Disabled Persons Act at all.

1        2. Damages under the Unruh Civil Rights Act, which provides for actual  
2 damages and a statutory minimum of \$4,000 for each offense.

3        3. Reasonable attorney fees, litigation expenses and costs of suit, pursuant  
4 to 42 U.S.C. § 12205; and Cal. Civ. Code §§ 52.

5  
6 Dated: August 31, 2020

CENTER FOR DISABILITY ACCESS

7  
8 By: 

9 \_\_\_\_\_  
10 Amanda Seabock, Esq.  
11 Attorney for plaintiff  
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